

Notice of Allowability

Application No.

09/855,750

Examiner

David J. Steadman

Applicant(s)

NAMPOOTHIRI K. ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 2/2/2005.
2. ☒ The allowed claim(s) is/are 25-27,29-36,40-44 and 46.
3. ☒ The drawings filed on 16 May 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/577,848.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

Status of the Application

- [1]** Claims 25-27, 29-36, 40-44, and 46 are pending in the application.
- [2]** Applicants' amendment to the claims, filed 2/2/2005, is acknowledged. This listing of the claims replaces all prior versions and listings of the claims.
- [3]** Receipt of a substitute combined Declaration and Power of Attorney, filed 2/2/2005, is acknowledged.

Examiner's Amendment to the Specification

- [4]** It is noted that two nucleic acid sequences are disclosed at p. 23 of the specification. These sequences are listed in the latest sequence listing filed 12/17/2001, however, the examiner can find no amendment to the specification to identify these sequences by their corresponding sequence identifier.
- [5]** An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Mr. Brett Nelson on 4/29/2005.
- [6]** Amend the specification as follows:
 - [a]** At p. 23 of the specification, please insert "(SEQ ID NO:3)" following "5'-TGA TTG GTG CAG ATA TAA GAA GTT-3'."

[b] At p. 23 of the specification, please insert "(SEQ ID NO:4)" following "5'-CAG CGA AGC GTG TTG GT-3'."

Examiner's Amendment to the Claims

[7] An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Mr. Brett Nelson on 4/14/2005.

[8] Amend the claims as follows:

[a] Cancel claims 37-39 and 45.

[b] Replace claim 36 with the following re-written claim:

36. An isolated polynucleotide fragment of SEQ ID NO:1 or of the complete complement of SEQ ID NO:1 consisting of at least 15 consecutive nucleotides.

Reasons for Allowance

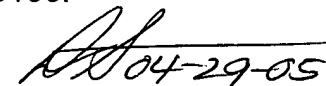
[9] The following is an Examiner's statement of reasons for allowance. The examiner has found no teaching or suggestion in the prior art directed to a nucleic acid encoding SEQ ID NO:2 including SEQ ID NO:1 or a fragment of SEQ ID NO:1 consisting of at least 15 consecutive nucleotides. Therefore, claims 25-27, 29-36, 40-44, and 46, drawn to a nucleic acid encoding SEQ ID NO:2 including SEQ ID NO:1, a vector comprising said nucleic acid, a host cell comprising said vector, and a fragment of SEQ ID NO:1 of

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at least 15 consecutive nucleotides, are allowable over the prior art of record. The specification discloses that expression of the nucleic acid of SEQ ID NO:1 in an appropriate host cell, e.g., Coryneform glutamicum, under appropriate culture conditions leads to an increase in the production of L-lysine. See Example 6, pp. 26-28 of the specification.

[10] Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Steadman, whose telephone number is (571) 272-0942. The Examiner can normally be reached Monday-Friday from 7:30 am to 5:00 pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ponnathapura Achutamurthy, can be reached at (571) 272-0928. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Art Unit receptionist whose telephone number is (703) 308-0196.


DAVID J. STEADMAN, PH.D.
PRIMARY EXAMINER